

of Riverside, California are exceptional. Riverside has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Don Harriger, General Manager of the Western Municipal Water District is one of these individuals. On Wednesday, January 28, 2004, he will be honored at a special retirement dinner.

Don was appointed General Manager in 1989, and has been responsible for the planning, direction, management, and overall supervision of the activities and operations of the District.

Prior to his appointment as General Manager, Don served the District as Assistant General Manager. In that previous position, he was appointed by the court to two Watermaster Committees, appointments he currently still holds. The Western-San Bernardino and the Santa Ana River Watermaster Committees were established as part of the 1969 Stipulated Judgments that settled the massive water rights issues in the Santa Ana Watershed. In June of 2003, Don was elected chairperson of the Santa Ana River Watermaster Committee.

Before joining Western, Don was Chief Engineer and Assistant Manager of the Santa Ana Watershed Planning Agency, the forerunner of the present-day Santa Ana Watershed Project Authority (SAWPA), a joint powers agency responsible for regional water resources planning and project implementation. At SAWPA, he was primarily responsible for the technical direction of the development of the Santa Ana Watershed Basin Plan. Prior to his position at SAWPA, Don was associate engineer with the State of California, Department of Water Resources.

A California registered professional engineer, Don received his Bachelor of Science Degree in Civil Engineering from the University of Illinois and his Master of Science Degree from California State University Sacramento. He and his wife Arvina reside in Riverside.

Don's leadership at the Western Municipal Water District has contributed immensely to the betterment of the District and the community of Riverside, California. I am proud to call Don a fellow community member, American and friend. I know that many community members are grateful for his service and salute him as he retires.

HONORING JUDGE JOSEPH
MATTINA UPON THE OCCASION
OF HIS RETIREMENT

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2004

Mr. REYNOLDS. Mr. Speaker, as the Western New York community gathers tonight to celebrate the life and career of the Honorable Judge Joseph Mattina, I rise to pay tribute to this outstanding jurist and dedicated public servant.

Throughout his career, Judge Mattina has been an exemplary community leader. Over his 40 years as a Supreme Court and Surrogate Court Judge, he has displayed a selfless commitment to our fellow citizens and to the

betterment of our community. He has truly served our society with tireless devotion, and his community contributions distinguish him as an example for us all.

As a judge, his name has become well known throughout both New York State and our nation. He has presided over significant and challenging trials, such as the Attica Prison Rebellion. He has also been influential in overseeing important programs throughout the State.

But Judge Mattina is known not only for his contributions to his profession, but for his contributions to our community. He is a decorated awardee, recipient of such awards as "Outstanding Citizen of the Year" and the "National Brotherhood" award. He has been honored by Time Magazine and has been inducted as a charter member of the Hall of Honor at the National Judicial College. He will be honored yet again this year when a state-of-the-art medical center located in Buffalo, NY is named after him: the Judge Joseph S. Mattina Medical Center. This is in recognition of his more than 35 years of service as a volunteer and as an important advocate of the construction of this facility.

Judge Mattina has earned a legacy of outstanding leadership and superb dedication. He has made significant and considerable contributions to our community, for which we are all incredibly thankful.

Mr. Speaker, I ask that this Congress join me in honoring Judge Joseph Mattina, and wish him the best of luck upon his retirement.

S. 877—CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING ACT OF 2003—CAN-SPAM ACT OF 2003 (PL 108-187)

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2004

Mr. DINGELL. Mr. Speaker, this statement represents my views as well as the views of W.J. "BILLY" TAUZIN, Chairman of the Committee on Energy and Commerce, on S. 877 the Can-Spam Act of 2003 ("the Act"). Our views on Sections one through five of the Act are contained in a separate statement submitted today by Chairman TAUZIN.

Section 6 of the legislation prohibits a person from allowing commercial e-mail messages in violation of section (5)(a)(1) to be sent by a third party if that person had knowledge of such promotion, expected to receive economic benefit from such promotion, and took no action to prevent the transmission of the e-mail messages or report such messages to the Federal Trade Commission. This section should not be interpreted to preclude any action brought under section 5 arising out of the same conduct.

Section 7 of the legislation sets forth enforcement provisions for the Act.

Subsection (a) provides for enforcement of the Act by the Federal Trade Commission (FTC) under section 18(a)(1)(B) of the Federal Trade Commission Act.

Subsection (b) provides for enforcement of the Act by certain other Federal functional regulators.

Subsection (e) provides the FTC and the Federal Communications Commission (FCC)

may seek injunctive relief or cease and desist orders without the showing of knowledge otherwise required under this Act.

Subsection (f) sets forth enforcement of the legislation by the States.

Paragraph (1) provides that the attorney general, or other official or agency of the State, may bring civil actions exclusively in Federal district court to enjoin violations of section 5 of the Act or obtain damages on behalf or residents of the State, equal to the greater of actual damages or statutory damages as determined under paragraph (3).

Paragraph (2) provides that State attorneys general may seek injunctive relief without the showing of knowledge otherwise required under the Act.

Paragraph (3) sets forth statutory damages.

Subparagraph (A) provides that for purposes of paragraph (1)(B)(ii) damages are determined by multiplying the number of violations, with discrete separately addressed unlawful messages each counting as a separate violation, by up to \$250.

Subparagraph (B) limits the damages a state attorney general may recover for violations of section 5, other than section 5(a)(1) to no greater than \$2,000,000.

Subparagraph (C) allows the court, in its discretion, to increase the amount of damages awarded under subparagraph (b) to three times the amount set therein if the court finds that the defendant's conduct was willful and knowing or the defendant's unlawful activity includes one or more of the aggravating violations set forth in section 5(b).

Subparagraph (D) provides for a reduction of damages. In assessing damages under subparagraph (A), the court may consider factors including whether the defendant has established and implemented, with due care, commercially reasonable practices and procedures designed to prevent violations of section 5. The court may consider whether the violation occurred despite commercially reasonable efforts to maintain compliance with the practices and procedures designed to prevent such violations.

Subsection (f) also provides that in the case of a successful action under paragraph (1), the court, in its discretion, may award costs of the action and reasonable attorney's fees to the State.

Subsection (g) provides for a limited right of action by bona fide Internet service providers. Paragraph (1) grants to Internet service providers adversely affected by a violation of section 5(a)(1), 5(b), or 5(d) or a pattern or practice that violates paragraph (2), (3), (4), or (5) of section 5(a) the right to bring civil action in Federal district court. The term "Internet access service" is defined to have the same meaning given that term in section 231(e)(4) of the Communications Act of 1934.

Subsection (g)(2) contains a special definition of "procure" for purposes of ISP enforcement actions that includes a scienter requirement with regard to whether a person who initiates commercial email on their behalf is engaging or will engage in a pattern or practice that violates this Act. It is the intent, with regard to the falsification violations of Section 5(a)(1), that "conscious avoidance of actual knowledge" be construed broadly in a manner consistent with a fundamental purpose of this Act to prohibit and deter falsification techniques in commercial e-mail. Therefore if the procurer has an indication that the initiator is